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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re United States Patent Application of:

Docket No.: 4197-114

Applicants: BAUER, Ralf-Uwe

Conf. No.: 8808

Application No.: 10/088,751

Art Unit: 1734

Date Filed: July 19, 2002

Examiner: Mark A. Osele

Title: METHOD FOR PRODUCING
CELLULOSE SHAPED
BODIES

23448

FACSIMILE TRANSMISSION CERTIFICATE

Fax No. (571) 273-8300

I hereby certify that this document, along with any enclosures identified herein, is being filed in the United States Patent and Trademark Office, via facsimile transmission to Mail Stop: Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date specified below, to United States Patent and Trademark Office facsimile transmission number (571) 273-8300.

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Number of Pages (including cover)



Donna Donovan

February 1, 2007

Date

**REQUEST FOR CONSIDERATION OF REFERENCES IN INFORMATION
DISCLOSURE STATEMENT FILED MAY 24, 2002, AND IMPROPERLY REFUSED
CONSIDERATION, IN U.S. PATENT APPLICATION NO. 10/088,751**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

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On May 24, 2002, an Information Disclosure Statement was filed in the U.S. Patent and Trademark Office in the above-identified application. A true and exact copy of such Information Disclosure Statement is contained in Appendix A hereof, and by this submission, the undersigned attorney avers that such Information Disclosure Statement was filed in the U.S. Patent and Trademark Office on May 24, 2002. As evidence of such submission, enclosed in Appendix B hereof is a true and exact copy of the return postcard transmitted to the U.S. Patent and Trademark Office, accompanying such Information Disclosure Statement and subsequently stamped by the mailroom of the U.S. Patent and Trademark Office as having been received on May 24, 2002.

On November 28, 2006, subsequent to receipt of the September 28, 2006 Notice of Allowance in this application, the undersigned attorney submitted a request for initialing of the PTO 1449 form from the Information Disclosure Statement filed May 24, 2002 in this application. A true and exact copy of such request is contained in Appendix C hereof.

Subsequent to such filing, Examiner Mark Osele contacted the undersigned attorney on December 20, 2006 and indicated that there was no record in his file of the original Information Disclosure Statement. He thereupon requested that the references cited in the May 24, 2002 Information Disclosure Statement be faxed to him for consideration. Accordingly, copies of the references were sent to Examiner Osele via facsimile to (571) 273-1235, so that he could review same. A total of 198 pages of references were faxed to Examiner Osele.

On December 21, 2006, Examiner Osele contacted paralegal Barbara Owens in the undersigned attorney's office and stated that he had all reference documents except EP0727439A1. In response, such European reference was faxed to Examiner Osele on December 21, 2006, involving transmittal of 15 additional pages of such reference and cover sheet.

In reliance on the fact that such references were being appropriately considered by Examiner Osele, the undersigned attorney paid the issue fee for the application on December 26, 2006.

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On January 9, 2007, Examiner Osele stated that he was lining through all of the references on the IDS in question (i.e., not considering same), and the Examiner additionally stated that he "did not have access to this IDS and, therefore, never reviewed the cited documents." The Examiner thereupon attacked the furnished documents in his statement that "[T]here is insufficient evidence to allow entry of this IDS at this time as there is no proof that these fourteen documents were on the IDS of May 21, 2002 along with the submission of the documents themselves." This situation is unfair and outrageous. The undersigned attorney has accurately and properly presented the true and exact copies of the IDS and appertaining references to the Examiner, who invited transmittal of same. The Examiner has not contested that an IDS was submitted in this application on May 24, 2002, and in fact the return postcard date-stamped by the USPTO is prima facie evidence of the filing of such document.

Further, applicant has relied in good faith on the Examiner's request for the IDS and references to redress the circumstance, which involved USPTO error since the IDS documents were not properly routed to Examiner Osele.

Having undertaken to give consideration to the references, and having invited applicant's submission of same, only to attack the veracity of the undersigned attorney upon the re-supplying of the references, presents a circumstance of patent unfairness and impropriety.

Since applicant has paid the issue fee in reliance on the Examiner's action, and the patent is scheduled to issue on February 13, 2007, it is requested that this document be entered into the file history of the patent, for completeness of the record.

Respectfully submitted,



Steven J. Hultquist
Reg. No. 28,021
Attorney for Applicants

INTELLECTUAL PROPERTY/
TECHNOLOGY LAW
Phone: (919) 419-9350
Fax: (919) 419-9354
Attorney File No.: 4197-114

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Enclosures:**May 21, 2002 Information Disclosure Statement – Appendix A****May 24, 2002 Date-Stamped Return Postcard – Appendix B****Request for Initialed PTO 1449 Form – Appendix C**

The USPTO is hereby authorized to charge any deficiency or credit any overpayment of fees properly payable for this document to Deposit Account No. 08-3284